

BRAND LAW GROUP

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July 19, 2011

VIA ELECTRONIC MAIL

Representative Jo Bonner, Chairman
Representative Linda Sanchez, Ranking Member
House Committee on Ethics
1015 Longworth House Office Building
Washington, DC 20515

Re: In the Matter of Representative Maxine Waters

Dear Chairman Bonner and Ranking Member Sanchez:

According to recent press reports, we understand that you will be meeting soon to assess what, if any, future action is necessary in the matter before the Committee on Ethics involving Congresswoman Waters.

Before this Committee takes any action, there are a number of points that we would like to make absolutely clear:

1) On November 19, 2010, despite our repeated requests for adjudication of this matter, the Committee recommitted the statement of alleged violation to an investigative subcommittee and cancelled the adjudicatory hearing. On December 22, 2010, the 111th Congress adjourned *sine die* without the investigative subcommittee taking any further action. Because the House of Representatives is not a continuing body any investigation "must occur during the term of the Congress in which the investigation takes place." *Gojack v. United States*, 384 U.S. 702, 706 n.4 (1966).

Accordingly, it is clear that no matter concerning Congresswoman Waters is legally pending before this Committee.

BRAND LAW GROUP

Hon. Jo Bonner & Hon. Linda Sanchez
July 19, 2011
Page 2

2) In light of the recent revelations first published in *Politico*, and the internal memoranda and emails which support them, any further action by this Committee would be irremediably tainted and without legal foundation. Although a full rendition of the significant constitutional and rule-based violations is outside of the scope of this letter, we believe that the evidence reveals the following categories of misconduct by *current* Committee members and staff:

- a) Prohibited and prejudicial *ex parte* communications between the Committee counsel responsible for this matter and the then-ranking members and then-ranking minority staff (both Committee and personal).
- b) The intentional and malicious misleading of members and staff relating to the investigation, including the state of the evidence, the effect of Committee and House rules, the scope of document requests and the adequacy of Respondent's and other's responses to those requests.
- c) Evidence of partiality and bias towards the Respondent by Committee counsel and members, including a preference for "accomplishing some really important things."
- d) The use of trumped-up federal obstruction and perjury charges by Committee counsel to increase pressure on Committee members to "get what we want on the [adjudicative subcommittee]."
- e) The illegal leaking of confidential Committee documents, transcripts, emails and other information to the media to create a misimpression regarding both the strength of the case against Respondent and the Committee's ability to proceed with this case. This misconduct, which is unprotected by the constitutional speech of debate clause, implicates Congresswoman Waters' constitutional and statutory rights, which we would seek to vindicate in federal court should that action be necessitated by the Committee.

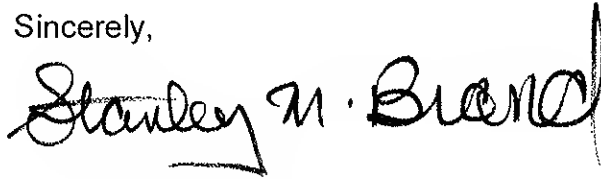
This misconduct is of such a fundamentally improper level that it cannot be cured by reliance on any other device, including employment of an outside counsel. Simply put, given the foregoing history, this Committee can never conduct an impartial and unbiased inquiry into this matter.

BRAND LAW GROUP

Hon. Jo Bonner & Hon. Linda Sanchez
July 19, 2011
Page 3

In sum, based on the above, we believe that the Committee's actions in this matter have concluded and that any further action, save from formal acknowledgement of dismissal, is legally precluded and indefensible.

Sincerely,

A handwritten signature in black ink that reads "Stanley M. Brand". The signature is written in a cursive, flowing style with a large, stylized "S" at the beginning and a long, sweeping underline.

Stanley M. Brand
Andrew D. Herman

SMB/ADH